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7 Attorney for Plaintiffs
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
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12 LORI DEW, G.V., a minor, by and
13 through his guardian ad litem,
MARYANNE GOULD, W.V., a minor,
14 B.V., a minor, L.V., a minor, T.C., a
15 minor, by and through their guardian ad
16 litem, MARILYN CORPUS, in each case
17 both individually and as successors-in-
18 interest to the ESTATE OF BRANDON
VIRTUE, Deceased,

19 Plaintiffs,
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21 vs.
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23 CITY OF SEASIDE, CHIEF ABDUL
PRIDGEN, MANUEL FERNANDEZ
24 and DOES 1 THROUGH 100,
INCLUSIVE,
25

26 Defendants
27

Case No.: 4:19-CV-06009 HSG

**EX PARTE MOTION TO EXTEND
TIME LIMIT FOR SERVICE
PURSUANT TO FRCP 4(m);
DECLARATION OF NICOLE
RECIO**

28 EX PARTE MOTION TO EXTEND TIME FOR SERVICE
PURSUANT TO FRCP 4(M)

1 TO THE HONORABLE COURT:

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3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 Plaintiffs hereby move to extend the time to serve Defendant Officer Manual
5 Fernandez for ninety additional days. Plaintiffs filed the operative complaint in
6 this matter on September 24, 2019 (Docket #1). The matter was assigned to this
7 above entitled court on December 11, 2019 (Docket #12). The summons was
8 issued on December 13, 2019 (Docket #17).
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11 Plaintiffs have good cause for the failure to serve Officer Fernandez.
12 Specifically, on December 19, 2019, Plaintiffs attempted to serve Officer
13 Fernandez at his employer Seaside Police Department with a summons and
14 conformed copy of the complaint. (See Exhibit 1, ¶ 2.) However, unbeknownst to
15 Plaintiffs, Officer Fernandez is no longer employed by the Seaside Police
16 Department. (See Exhibit 1, ¶ 3.) Seaside Police Department declined to share
17 Officer Fernandez's location or forwarding address. (See Exhibit 1, ¶ 3.)
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21 **I. GOOD CAUSE FOR AN EXTENSION EXISTS**

22 Rule 4(m) of the Federal Rules of Civil Procedure ("FRCP") states that:

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24 If a defendant is not served within 90 days after the complaint
25 is filed, the court—on motion or on its own after notice to the plaintiff—
26 must dismiss the action without prejudice against that defendant or
27 order that service be made within a specified time. But if the plaintiff
28 shows good cause for the failure, the court must extend the time for
service for an appropriate period... Fed. R. Civ. P. 4(m).

EX PARTE MOTION TO EXTEND TIME FOR SERVICE
PURSUANT TO FRCP 4(M)

1 Even if good cause has not been established, the court has broad discretion
2 to extend time under Rule 4(m). *Efaw v. Williams*, 473 F.3d 1038, 1041 (9th Cir.
3 2003).

4
5 Here, Plaintiffs have good cause for the failure as Plaintiffs made diligent
6 efforts to serve Officer Fernandez at the correct location for the Department, but
7 were not aware that he was no longer employed. Even though the representative of
8 Seaside Police Department declined to share a forwarding address, such
9 information should be provided during Defendants' initial disclosures (FRCP
10 26(a)(1)(a)(i).) Alternatively, Plaintiffs will diligently seek such information
11 through interrogatories, independent investigation, and informal discovery.
12
13 However, in light of Officer Fernandez's very common name and protocols to
14 protect a peace officer's home address, it is anticipated diligent independent
15 investigation will yield little fruit. Plaintiffs are therefore dependent on Defendant
16 Seaside's initial disclosures and answers to interrogatories to discover Defendant
17 Fernandez's address such that he may be served with the summons and complaint.
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EX PARTE MOTION TO EXTEND TIME FOR SERVICE
PURSUANT TO FRCP 4(M)

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DATED: December 20, 2019

/s/ *Jeremy Lessem*
Jeremy I. Lessem
Attorney for Plaintiffs
